

Steven A. Heisler, Esq

Proud Member of the

- Michigan State Bar
- Federal Eastern District of Michigan Bar
- United States Supreme Court Bar

LAW OFFICES OF
STEVEN A. HEISLER, ESQ
Professional Limited Liability Company

363 SOUTH WATER STREET
MARINE CITY, MICHIGAN 48039-1694
www.heisler.org

Telephone 810.765.3000
Facsimile 305.704.3888

Other Offices Throughout Michigan

Bad Axe, MI: 989.269.0000
Capac, MI: 810.395.4000
Detroit, MI: 313.566.0000
Mt. Clemens, MI: 586.466.0000
Pontiac, MI: 248.339.0000
Port Huron, MI: 810.982.0000
Richmond, MI: 586.727.0000
Sandusky, MI: 810.648.9000
Yale, MI: 810.387.0000

Chicago, IL: 312.697.9000
Washington, DC: 202.659.0000

November 1, 2011

Corbin Davis
Clerk of the Court
Michigan Supreme Court
Post Office Box 30052
Lansing, Michigan 48909

***** SENT VIA EMAIL ONLY TO: *****
MSC_Clerk@courts.mi.gov

RE: ADM File No. 2002-24 – Amendment of Rule 7.3 of Michigan Rules of Professional Conduct

Dear Clerk Davis:

I appreciate the opportunity to comment on the proposed amendment to the Michigan Rules of Professional Conduct (MRPC 7.3). I would first like to thank the Michigan Supreme Court's decision to rescind the prior order to modify MRPC 7.3.

Of course I have every intent to follow any and all the MRPC today and in the future, however, I am concerned about the proposed change to MRPC 7.3. The United States Supreme Court has indicated that "commercial speech" is entitled to First Amendment protection. The United States Supreme Court has also said "commercial speech that is not false or deceptive and does not concern unlawful activities may be restricted only in the service of a substantial governmental interest, and only through means that directly advance that interest".

The first amendment right to free speech is also the right not to speak. The proposed change mandates speech when advertising. The question that arises is; what is the substantial governmental interest that the proposed rule is trying to address and does the proposed change to the rule ONLY advance that interest. I assume the interest is to protect a grieving family from advertisements from personal injury attorneys.

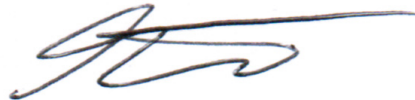
I use direct mail for my family law practice to offer free consultations when a spousal has filed for divorce. Many of these fine people going through a divorce start the free consultation with me by saying "I just want you to know I can't afford to hire you". I still give them the free consult promised and many times I refer them to legal aid services. Many of these people indicate they had no idea free legal aid services were available for them or where to find it. But for my letter, they would never had the opportunity to be represented by an attorney, even that the letter I sent was for my financial gain.

The proposed changes to MRPC 7.3 go well beyond protect a grieving family from advertisements from personal injury attorneys. It would affect me and the people I offer a free consult to. I offer one free hour to educate people of their rights in a divorce action and of course it is my hope some of them will hire me. On occasion I have told some of these people about the proposed change to MRPC 7.3. They have expressed to me that they are glad they got and read my letter and were not sure they would have even read the letter if it was marked as an advertisement. I educate people about their case, regardless if they ever would or could hire me. There also is a governmental interest that people are informed of their rights. The right of being educated I believe far out ways any other benefit the proposed change would create

Just this last Saturday, October 29, 2011 I met with a gentleman that was 70 years old where his wife filed for divorce. In informed me that after 40 years of marriage his wife left him and had no money to hire me. I took the time to answer all of his questions and even provided him with the name and telephone number of the local legal aid. I inquired of him if he would have open and read my letter if the envelope indicated it was an advertisement material. He said no. I advised him about the proposed change to the MRPC. He said if I was required to place advertisement material on the outside of my letters, he fears he never would have gotten the legal help he needed. I asked him if he thought there should be a rule that requires attorneys to place advertisement material on envelopes when mailing the type of advertisement he received. Again he said no because people like him would never have a chance to get the legal help they need.

The fear I have with the new proposed amendment is two-fold. First of course is that fewer people will retain my services. Second is that more people will not know their legal rights and what options they have available to them. I, as the people I have spoken to about this proposed change, hope the proposed change to MRPC 7.3 is not adopted.

Very Truly Yours,

A handwritten signature in blue ink, appearing to read 'S. Heisler', with a long horizontal flourish extending to the right.

Steven A. Heisler, Esq.
Attorney at Law